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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Mark C. Nicely

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EXAMINER

DUFFY, DAVID W

ART UNIT

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3714

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/670,153	Applicant(s) NICELY ET AL.	
	Examiner DAVID W. DUFFY	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17, 19, 20 and 24-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17, 19, 20 and 24-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>07/14/2008</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 07/14/2008 has been entered.

Status of Claims

2. This office action is in response to the amendment filed 07/14/2008 in which applicant amends claims 1, 9, 11, 14-15, and 19-20. Claims 1-17, 19-20, and 24-27 are pending.

Claim Objections

3. Claim 1 is objected to because of the following informalities: The claim recites "1) receive an incoming wagers" which is grammatically incorrect. Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 1-17, 19-20, and 24-27 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains

Art Unit: 3714

subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 1, 9, 14, 15, and 19 each recite the limitation “a product of a wager amount necessary to participate in a progressive jackpot, a reciprocal of an odds of winning the progressive jackpot and the new percentage of the incoming wager amount to be applied to the progressive jackpot is equal for the first and second gaming system”. The specification as filed does not support this limitation. Claims 2-8, 10-13, 16-17, 20, and 24-27 inherit this deficiency. Applicant is advised that corrections to the specification to support the amended claims will constitute new matter. Should applicant desire to claim the new feature, a new specification in a continuation-in-part application may be necessitated.

Claim Rejections - 35 USC § 103

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
7. Claims 1-3, 6-12, 14, 19-20, and 24-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tracy; Daniel A. (US 5116055 A).
8. In regards to claims 1 and 24, Tracy discloses a system for managing a progressive jackpot including an interface (fig 1, elements 6), and a progressive engine for maintaining a progressive game (fig 1, element 3), the progressive management device being coupled by the interface to a first gaming system and a second gaming system, where the systems have difference progressive parameters (fig 2), the first set of parameters including a percentage of a wager amount to be applied to a progressive

Art Unit: 3714

jackpot (fig 2, % to JP), the progressive management system operable to receive an incoming wager where a portion of the incoming wager is to be applied to the progressive jackpot (3:12-30), determine a percentage of the incoming wager amount to be applied to the progressive jackpot such that a product of a wager amount necessary to participate in a progressive, the reciprocal of an odds of winning and the percentage to be applied to the progressive is equal for the first and second game system based on the gaming system associated with the wager amount (2:32-36, 3:57-65 and fig 2 where hit frequency is the same as the reciprocal of the odds and along with the bet required is constant thus requiring the % to jp to be adjusted to maintain the stated equality) and for each wager comparing the odds of winning to a random number to determine whether the progressive is won (3:35-38, where the gaming machines determine the outcome for each wager based on a random number and notify the progressive controller). Tracy does not explicitly disclose that the progressive management device controls the generation of numbers to determine winners of the progressive or that a new jackpot percentage is determined. However, it would have been an obvious modification to one of ordinary skill in the art at the time of invention that the outcome generation of the local game machines could have been controlled by the central progressive controller in order to centralize the game functions, reduce the complexity of the local devices, and thereby reduce the maintenance needs and expenses as evidenced by Itkis; Boris (US 4856787 A). While Tracy is silent as to the frequency of the determination of the contribution percentage, it would be obvious to a person of ordinary skill in the art that the percentage should be updated whenever the game parameters change, such as a

Art Unit: 3714

change in the hit frequency of a game which would alter the amount contributed to the pool per jackpot, in order to maintain the balance of the contribution to the bonus pool by each gaming device as set forth in the disclosure of Tracy.

9. In regards to claim 2, Tracy discloses the management device further comprises an analysis engine operable to examine a plurality of gaming systems and progressive parameters (fig 1, element 3) and an integrator operable to integrate progressive games having different payout parameters into a single progressive jackpot (fig 1, elements 7).

Tracy does not disclose that the parts are included in the progressive controller; however, it would have been obvious to one of ordinary skill in the art that the functionality of the translators may be incorporated into the progressive controller in order to simplify the system and thereby reduce the maintenance required by the system since it is immaterial where the software that performs this function resides.

10. In regards to claim 3, Tracy discloses the management device is coupled through a network (fig 1).

11. In regards to claims 6 and 7, Tracy discloses that the progressive manager device provides information on the progressive to the user gaming interface in real time (3:22-30, where the display is updated constantly as wagers are placed).

12. In regards to claim 8, Tracy discloses resetting the value of the progressive when a user wins (3:35-41).

13. In regards to claims 9 and 25, Tracy discloses a method for a progressive with systems of various parameters comprising initiating a progressive, providing a first gaming system with a first set of parameters, a second gaming system with a second

Art Unit: 3714

set of parameters, receiving wagers, determining the percentage of the wager to apply to the progressive jackpot, repeating for the second game machine (figs 2-4 and 2:65-3:3); such that a product of a wager amount necessary to participate in a progressive, the reciprocal of an odds of winning and the percentage to be applied to the progressive is equal for the first and second game system based on the gaming system associated with the wager amount (2:32-36, 3:57-65 and fig 2 where hit frequency is the same as the reciprocal of the odds and along with the bet required is constant thus requiring the % to jp to be adjusted to maintain the stated equality) and for each wager comparing the odds of winning to a random number to determine whether the progressive is won (3:35-38, where the gaming machines determine the outcome for each wager based on a random number and notify the progressive controller). Tracy does not explicitly disclose determining a new jackpot contribution percentage; however, it would be obvious to a person of ordinary skill in the art that the percentage should be updated whenever the game parameters change, such as a change in the hit frequency of a game which would alter the amount contributed to the pool per jackpot, in order to maintain the balance of the contribution to the bonus pool by each gaming device as set forth in the disclosure of Tracy.

14. In regards to claim 10, Tracy discloses analyzing the first and second set of progressive parameters (figs 2-4).

15. In regards to claim 11, Tracy discloses a third game system and the balancing of the contributions for all three systems (fig 1, 2:32-36 and 3:57-65).

Art Unit: 3714

16. In regards to claim 12, Tracy discloses the progressive parameters include game odds (figs 2-4, hit frequency).

17. In regards to claims 14 and 26, Tracy discloses the system of claim 1 above, but does not explicitly disclose a gaming server between the progressive controller and the game systems. However, the exact arrangement of the gaming network is a matter of obvious design choice, well within the abilities of one skilled in the art to implement as desired. The exclusion or inclusion of multiple layers of middle managing servers does not distinguish over the prior art of Tracy.

18. In regards to claim 17, Tracy discloses the system of claim 1 above, but does not explicitly disclose multiple gaming servers in different enterprises. However, the exact arrangement of the gaming network is a matter of obvious design choice, well within the abilities of one skilled in the art to implement as desired. The exclusion or inclusion of multiple layers of middle managing servers in various locations does not distinguish over the prior art of Tracy.

19. In regards to claims 19 and 27, Tracy discloses a method for determining a progressive outcome comprising: receiving data at a progressive management device based on an incoming wager on a gaming machine with progressive parameters, a percentage of the incoming wager to be applied to the jackpot such that a product of a wager amount necessary to participate in a progressive, the reciprocal of an odds of winning and the percentage to be applied to the progressive is equal for the first and second game system based on the gaming system associated with the wager amount (2:32-36, 3:57-65 and fig 2 where hit frequency is the same as the reciprocal of the

Art Unit: 3714

odds and along with the bet required is constant thus requiring the % to jp to be adjusted to maintain the stated equality), incrementing the progressive jackpot using the percentage (3:31-34), executing a random calculation using the odds to determine if a progressive jackpot is won (3:35-38, where the gaming machines determine the outcome for each wager based on a random number and notify the progressive controller). Tracy does not explicitly disclose that the progressive management device controls the generation of numbers to determine winners of the progressive or that a new jackpot percentage is determined. However, it would have been an obvious modification to one of ordinary skill in the art at the time of invention that the outcome generation of the local game machines could have been controlled by the central progressive controller in order to centralize the game functions, reduce the complexity of the local devices, and thereby reduce the maintenance needs and expenses as evidenced by Itkis; Boris (US 4856787 A). While Tracy is silent as to the frequency of the determination of the contribution percentage, it would be obvious to a person of ordinary skill in the art that the percentage should be updated whenever the game parameters change, such as a change in the hit frequency of a game which would alter the amount contributed to the pool per jackpot, in order to maintain the balance of the contribution to the bonus pool by each gaming device as set forth in the disclosure of Tracy.

20. In regards to claim 20, Tracy discloses that the percentages are determined based on the contributions of other game machines' parameters, which would be from a database (figs 2-4 and 4:12-21).

Art Unit: 3714

21. Claims 4-5, 13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tracy; Daniel A. (US 5116055 A) in view of Torango; Lawrence J. (US 6241608 B1).

22. In regards to claims 4-5, Tracy discloses the system of claim 1 above but does not disclose real time currency conversion.

23. In related prior art, Torango discloses an international progressive system with real time currency conversion (17:22-43). One skilled in the art would recognize the advantages of a progressive with a large group of players to support large, frequent jackpots and the need to convert different currencies into the local currency.

24. Therefore it would have been obvious to one skilled in the art at the time of the invention to have modified Tracy in view of Torango to have included real time currency conversion to enable a much larger player base to support large, frequent jackpots.

25. In regards to claim 13, Tracy discloses the method of claim 9 above, but does not disclose including currency type in the payout parameters.

26. In related prior art, Torango discloses an international progressive that includes currency type in the payout parameters (17:23-31). One skilled in the art would recognize the advantages of a multinational progressive to support large, frequent payouts and the associated need to convert the prize into the local currency.

27. Therefore it would have been obvious to one skilled in the art at the time of the invention to have modified Tracy in view of Torango to have included currency type in the payout parameters in order to provide a multinational progressive that supports large, frequent jackpots in the local currency.

Art Unit: 3714

28. In regards to claim 15, Tracy discloses a method for determining a progressive outcome comprising: receiving data at a progressive management device based on an incoming wager on a gaming machine with progressive parameters, a percentage of the incoming wager to be applied to the jackpot such that a product of a wager amount necessary to participate in a progressive, the reciprocal of an odds of winning and the percentage to be applied to the progressive is equal for the first and second game system based on the gaming system associated with the wager amount (2:32-36, 3:57-65 and fig 2 where hit frequency is the same as the reciprocal of the odds and along with the bet required is constant thus requiring the % to jp to be adjusted to maintain the stated equality), incrementing the progressive jackpot using the percentage (3:31-34), executing a random calculation using the odds to determine if a progressive jackpot is won (3:35-38, where the gaming machines determine the outcome for each wager based on a random number and notify the progressive controller). Tracy does not explicitly disclose that the progressive management device controls the generation of numbers to determine winners of the progressive or that a new jackpot percentage is determined.

29. However, it would have been an obvious modification to one of ordinary skill in the art at the time of invention that the outcome generation of the local game machines could have been controlled by the central progressive controller in order to centralize the game functions, reduce the complexity of the local devices, and thereby reduce the maintenance needs and expenses. While Tracy is silent as to the frequency of the determination of the contribution percentage, it would be obvious to a person of ordinary

Art Unit: 3714

skill in the art that the percentage should be updated whenever the game parameters change. Tracy does not explicitly disclose the consideration of currency type with the progressive parameters or the conversion of currency types.

30. In related prior art, Torango discloses one or more gaming systems seeking participation in a jackpot, analyzing the game systems' characteristics, converting currency, changing the jackpot contributions to make total contributions equal (12:66-14:20) and further identifies a source of wager amounts, determines the value to add to the jackpot and adds that value to the jackpot (17:14-43). One skilled in the art would recognize the advantages of a multinational progressive in terms of increasing the available player based to support large, frequent progressive jackpots and the associated need to handle currency conversion to provide payouts in the local currency.

31. Therefore it would have been obvious to one skilled in the art at the time of the invention to have modified Tracy in view of Torango to have included currency type in the payout parameters in order to provide a multinational progressive that supports large, frequent jackpots in the local currency.

Response to Arguments

32. Applicant's arguments with respect to all claims have been considered but are moot in view of the new ground(s) of rejection.

33. Applicant is advised that all claims should be labeled with the proper status of the claims in each amendment. Claim 20 is mislabeled in the present amendment, but is assumed to be intended as Currently Amended.

Art Unit: 3714

34. It is further noted that applicant's arguments directed to the adjustment of the jackpot percentage being adjusted on a wager-by-wager basis are not pertinent as the limitation is not explicitly claimed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID W. DUFFY whose telephone number is (571)272-1574. The examiner can normally be reached on M-F 0830-1700.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan M. Thai can be reached on (571) 272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic

Art Unit: 3714

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. W. D./
Examiner, Art Unit 3714

/Corbett Coburn/
Primary Examiner
AU 3714